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OFFICE OF PETITIONS
ON PETITION

In re Application of
Williams, et al.
Application No. 10/622,134
Filed: July 18, 2003
Attorney Docket No. 550-453
For: EOTAXIN : EOSINOPHIL CHEMOTACTIC
CYTOKINE

This is a decision on the reconsideration petition filed April 13, 2004, requesting, in effect, withdrawal of a Notice mailed January 7, 2004, insofar as it alleges that Figures 3-5 were omitted from the original filing. The petition will be treated under 37 CFR 1.53(e).

The petition is granted. Regarding finances, the \$130.00 petition fee submitted on November 14, 2003 will be credited to deposit account no. 14-1140.

The application was filed on July 18, 2003. However, on January 7, 2004, The Office of Initial Patent Examination mailed a "Notice to File Missing Part(s) of Nonprovisional Application" (Notice) stating, *inter alia*, that the application had been accorded a filing date of July 18, 2003, and advising applicants that Figures 3-5, as referenced in the specification, appeared to have been omitted. In response, petitioners filed a petition under 37 CFR 1.53(e) on November 14, 2003.

Petitioners asserted that seven sheets of drawings, including allegedly omitted Figures 3-5, which were copies of those in parent application no. PCT/GB94/02006, and an additional 7 sheets of drawings were received in the Office on July 18, 2003. In support, the petition was accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing July 18, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 7 sheets of drawings and 7 additional sheets of drawings.

The return postcard constitutes *prima facie* evidence that 14 sheets of drawings were filed on July 18, 2003. MPEP 503.

However, the petition filed November 14, 2003 was dismissed because the only drawings present in the application file were the additional 7 sheets of drawings, which admittedly did not contain Figures 3-5. The eight sheets of formal drawings submitted with the November 14, 2003 petition were clearly not the seven sheets of drawings from the parent application.

Petitioners have submitted the original seven sheets of drawings. The drawings contain a sheet of drawings depicting Figures 3-5. The Office has compared the copy of the original seven sheets of drawings to the eight sheets of formal drawings submitted on November 14, 2003. It is apparent that all figures depicted in the November 14, 2003 formal drawings were present on July 18, 2003.

Therefore, the application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **July 18, 2003**. The formal drawings filed on November 14, 2003 will be used for processing purposes.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.

A handwritten signature in cursive script, reading "E. Shirene Willis".

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy